

LAW FIRST, AND THEN DISARM: Only United Nations law will regulate and obviate arms

**Stanley William Johnston,
Former Head of Criminology at Melbourne University**

Summary

Australia's objectives in arms regulation ought to be shaped by the *United Nations Charter*, human rights law, the Pacific Islands Forum, the ANZUS Treaty, human solidarity, and economy. Substantial progress in arms regulation will occur when the world community owns its loyalty to and confidence in the United Nations. That confidence will grow as –

- education furthers United Nations activities for the maintenance of peace,
- the UN Security Council enforces its own Resolutions and World Court decisions, and
- the Pacific Islands Forum grows into our regional political order.

This political maturing will bring arms under law, and make arms more discriminating.

Here therefore I discuss –

- United Nations doctrine on arms regulation: paragraphs 2-10.
- Strengthening United Nations law: paragraphs 11-15.
- Enlarging the Pacific Islands Forum: paragraphs 16-18.
- Realising the human right to education: paragraphs 19-22.

In the text I underline particular principles and recommendations.

1. The Joint Standing Committee on Treaties is asked how to make more comprehensive or effective our treaties on “nuclear non-proliferation and disarmament”. Its report will assist –

- the new Japan-Australia International Commission on Nuclear Non-proliferation and Disarmament, and
- the 2010 review conference of the 42-year-old *Treaty on the Non-Proliferation of Nuclear Weapons 1967*.

The term “nuclear non-proliferation” is in the short title of that Treaty, in the terms of reference of this inquiry, and in the name of that bilateral Commission. But the term is elliptical because the Treaty both restricts nuclear weapons and promotes nuclear energy. The phrase “nuclear non-proliferation and disarmament” demonises the virtues of weapons and nuclear physics; it lacks perspective and blocks efficient comprehensive results. Such great powers are to be regulated with precise language. In today's climate of national anarchism the word “disarmament” has mixed connotations: it is negative, eccentric, capricious, altruistic and utopian. It conveys our vulnerability to 99% of the world, whom we may see as lawless foreigners or enemy aliens. The UN website www.un.org has a heading “Peace and Security through Disarmament”. But “disarmament” puts the cart before the horse. We do not want to be disarmed, we want better defence. We may surrender our guns when we trust the sheriff; but talk of disarmament outside binding UN law is disturbing and divisive, and partly fuels the arms race. The term “arms regulation” is more positive, comprehensive and disciplined. The Joint Committee could confirm its credentials and balance by couching its report in the context of the UN Security Council's keeping the peace by reliably enforcing UN law. Tapping Australian Defence Force experience in

UN peacekeeping, the Committee could sketch the requirements of a permanent UN peace force under the *Charter* articles 43 and 47. When we describe the personnel and weapons the Council needs, we shall know what arms we do not need or want elsewhere. The Committee could offer plans for arms regulation under articles 26 and 47. Arms regulation will –

- Refine weapons for conciliatory policing of the law.
- Reduce the excess of conventional weapons.
- Discard egregious weapons of mass destruction: being indiscriminate, their use violates the law of armed conflict.
- Free resources to develop the economy and to green the deserts.

United Nations doctrine on arms regulation

2. Articles 11, 26 and 47 of the *UN Charter* provide for arms regulation. By article 26 the Security Council –

“shall be responsible for formulating ... plans ... for the establishment of a system for the regulation of armaments.”

The principles of arms regulation are no more complex than those of local gun control, and have been known from the start. Diplomacy is not enough; arms regulation requires a political authority making and enforcing law; and that authority must be the United Nations. The enforcement required will confirm the United Nations as the federal world state with the *Charter* as its Constitution. This is a great step in political and legal evolution, and we are cautious. Good political orders evolve over centuries. Acting by fiat under the *Charter* chapter 7, the Security Council set up war crimes tribunals for Yugoslavia, Rwanda and Sierra Leone; those courts, and the recently established World Criminal Court, are a watershed in UN criminal justice. And arms regulation will take us over another threshold. We are driven on partly by the promise of rational government, and partly by the risk of chaos should the UN collapse – like the League of Nations, but worse with today’s weapons of massive destruction. The vision and courage of statesmen will take over from the wit of diplomats and the courage of soldiers.

3. There will be tendencies to tyranny in the United Nations, beyond which there is no foreseeable appeal; and we could not stand a UN sovereignty like today’s national sovereignty, bending to no law. The best defence against that will lie in –

- A balance of powers within the UN (Montesquieu admired Westminster’s hard-won, stable constitutional monarchy).
- A free press.
- A critical education which facilitates and guides the transition and cordially analyses the UN as *our* government.

The *Westphalia Peace Treaty 1648* asserted local sovereignty against Rome and produced today’s international society; it envisaged sanctioning miscreant nations, but set up no machinery for it. The UN Charter 1945 sets up that machinery, and gives the United Nations the sovereignty it needs to achieve its purposes (article 1). A sovereign exercises a monopoly of the legitimate use of power in a jurisdiction; and the UN’s global legitimacy gives it the ascendancy over any nation or alliance of nations. Article 2.1 protects “the sovereign equality of all its members.” That is, it protects a nation from international invasion, but not from UN intervention. The UN overrides a nation’s sovereignty without violating its sovereignty: no member state is equal to or supreme over the UN. Sovereignty is divided in a federation, and article 2.7 preserves member states’ municipal sovereignty against the UN in “essentially ... domestic” matters. But articles 13, 55 and 56 may leave little to the essentially domestic. The UN does not use the death sentence; and the UN will not amass a military force exceeding today’s grand armies. However, no minority

bloc has yet been game to trust the majority to exercise that power of government in the UN: voting blocs have put party before principle, peace and prosperity. It takes time and dedication to centralise power in a new federation. It took a civil war after 81 years to establish Washington's authority over the South; after a century, Australia is still very decentralised; and the United Nations is a young emerging federation. In 1946 in its very first Resolution the UN General Assembly [UNGA] set up an Atomic Energy Commission and requested the abolition of weapons of mass destruction. The AEC aimed to criminalise the use of nuclear weapons, but the communist-capitalist and Christian-Muslim rivalries, with the non-aligned Third World standing off, have doused leadership. So progress under Resolution 1 has been slow: arms regulation is still the main item on the agenda of the Assembly's First Committee (Disarmament and International Security), and an item for its Sixth Committee (Legal). Weak legislation from members of a parliament or members of the UN reflects on the members, not on the institution; and the UN remains our only vehicle. The Joint Committee therefore must dig deep to be "more comprehensive or effective" than that nihilist record.

4. Cicero said, *Inter arma leges silent*: In the clash of arms the law is silent. Flavius Vegetius said, *Qui desiderat pacem, praeparet bellum*, or *Si vis pacem, para bellum*: If you want peace, prepare for war. The *UN Charter* says in effect, *Si vis pacem, para jus*: If you want peace, apply the law. Diplomats and generals settle conflicts beyond the current reach of law; but the UN and the Red Cross extend the reach of the law. Nation states stopped wars between city states, and the UN is stopping inter-national wars: in the larger, encompassing political society all wars are civil wars. The UN University for Peace and the *International Law Review* use for their mastheads, *Si vis pacem, para pacem* (For peace, practise peace). That begs the question of how. Pacifists wrongly equate force with violence. Unnecessary force in policing is a crime; but those who discount UN sovereignty generate fear and weapons. *Jus gentium* was the natural law common to the peoples of the Roman Empire, *pax Romana*. To escape the tyranny of the Inquisition, international law degraded *jus gentium* into the law of nations, the heresy of sovereignty acknowledging no superior law. In the thirteenth century, before the Reformation, Henry de Bracton (*De legibus et consuetudinibus Angliae*) said, "A king ought not to be under man, but under God and the law," i.e. under natural law and positive law. Later, however, while wrestling against Rome, Jean Bodin (*Six Livres de la République*, 1576) said the sovereign is a "supreme power, unrestrained by law." That suited Napoleon. And Carl Schmitt (*Political Theology*, 1923) echoed it for Hitler. Thus inter-national law – "law" between but not over nations – preaches morality, but practises anarchy. With its premise of national supremacy, international law is a conspiracy against the rule of law. This over-reaction to Rome still appears in some religious discrimination in Britain's constitutional law. More grievously and pervasively, it produced unrestrained national sovereignty and an apotheosis of the nation, sponsoring the divine Hirohito, Josef Stalin, Idi Amin, Pol Pot – and an irrational phobia of any supranational authority. People hold to their nation's supremacy even though it kills them. But local pride and safety do not gain from such arrogance. Fear of power is proper, but it is time to convert the bitter, crippling rebellion of 1648 into the enabling revolution of United Nations law. US and Australian federal laws are not "interstate law"; and likewise United Nations law supersedes inter-national lore. Under the *Charter* chapter 7 and articles 2.5, 2.7, 5, 36, 53 and 94, UN "enforcement action" and "enforcement measures" apply a normal law which is supranational. But arms regulation dawdles still because poor leaders fear UN law more than war; they fear the regulator more than the weapons and the massacres. They have a point; but the point can be fully answered.

5. When the West still had its automatic majority in the Assembly, UNGA Resolution 380 (1950), *Peace through Deeds*, urged nations –

- “(a) To accept effective international control of atomic energy, under the United Nations, on the basis already approved by the General Assembly in order to make effective the prohibition of atomic weapons;
- (b) To strive for the control and elimination, under the United Nations, of all other weapons of mass destruction;
- (c) To regulate all armaments and armed forces under a United Nations system of control and inspection, with a view to their gradual reduction;
- (d) To reduce to a minimum the diversion for armaments of its human and economic resources and to strive to develop such resources for the general welfare, with due regard to the needs of the under-developed areas of the world.”

In Resolution 38/75 (1983), *Condemnation of Nuclear War*, the Assembly –

- “1. Resolutely, unconditionally and for all time condemns nuclear war as being contrary to human conscience and reason, as the most monstrous crime against peoples and as a violation of the foremost human right – the right to life;
- 2. Condemns the formulation, propounding, dissemination and propaganda of political and military doctrine and concepts intended to provide ‘legitimacy’ for the first use of nuclear weapons and in general to justify the ‘admissibility’ of unleashing nuclear war;
- 3. Calls on all states to unite and redouble their efforts aimed at removing the threat of nuclear war, halting the nuclear-arms race and reducing nuclear weapons until they are completely eliminated.”

The Assembly has repeatedly declared –

“The use of nuclear weapons would be a violation of the *Charter of the United Nations* and a crime against humanity”: Resolutions 33/71B, 34/83G, 35/152D, 36/92I, 36/100, 38/63, 38/183B, 39/73H, 40/151F...

Resolution 50/71E (1995) reiterates that declaration and includes a draft Convention to ban nuclear weapons. But states party to the Convention would merely “undertake not to use or threaten to use nuclear weapons under any circumstances.” Possession of weapons embodies a deterrent threat to use them, and a voluntary undertaking is not enough. We should criminalise any stockpile of indiscriminate weapons. However, as former colonies joined the UN, the US bloc (including Australia) lost its automatic majority in the Assembly, and consistently opposed or abstained on those Resolutions. The Joint Committee will resolve this vacillation only by describing the more comprehensive steps outlined here.

6. The International Atomic Energy Agency arose from the AEC to promote safe nuclear power and safe disposal of nuclear wastes. Like ICAO and the UN, the IAEA is supranational in that its 1956 Constitution is revised by majority vote which binds a dissenting minority. Nuclear weapon states plan the greatest ever genocide. India, Pakistan and Israel should be put under sanctions to join the NPT: nuclear weapons are intolerable, and theirs are uncontrolled. Since nuclear weapons threaten all life, we can hardly trust polycentric government of nuclear power. The Joint Committee would strengthen the IAEA for mandatory safeguarding of nuclear conversion facilities: Reports 81, 94. IAEA inspection of nuclear reactors should be mandatory. The IAEA could take control of the nuclear fuel cycle before someone launches a nuclear attack; it could assume a monopoly over the production and distribution of nuclear energy, and license responsible governments to operate nuclear reactors.

7. In its *Declaration Prohibiting the Use of Nuclear and Thermo-Nuclear Weapons 1961* (Resolution 1653) the General Assembly –

“Recalling that the use of weapons of mass destruction, causing unnecessary human suffering, was in the past prohibited, as being contrary to the laws of humanity and to the principles of international law, by international declarations and binding agreements, such as –

the *Declaration of St Petersburg* 1868,
the *Declaration of the Brussels Conference* 1874,
the *Conventions of the Hague Peace Conference* 1899 and 1907, and
the *Geneva Protocol* 1925, –

to which the majority of nations are still parties,...

1. Declares that:

(a) The use of nuclear and thermo-nuclear weapons is contrary to the spirit, letter and aims of the United Nations and, as such, a direct violation of the *Charter of the United Nations*;

(b) The use of nuclear and thermo-nuclear weapons would exceed even the scope of war and cause indiscriminate suffering and destruction to mankind and civilisation and, as such, is contrary to the rules of international law and to the laws of humanity;

(c) The use of nuclear and thermo-nuclear weapons is a war directed not against an enemy or enemies alone but also against mankind in general, since the peoples of the world not involved in such a war will be subjected to all the evils generated by the use of such weapons;

(d) Any state using nuclear and thermo-nuclear weapons is to be considered as violating the *Charter of the United Nations*, as acting contrary to the laws of humanity and as committing a crime against mankind and civilisation.”

8. The Assembly’s *Disarmament Resolution 1978*, adopted under article 11 of the *Charter*, includes these principles:–

“8. While the final objective of the efforts of all states should continue to be general and complete disarmament under effective international control, the immediate goal is that of the elimination of the danger of a nuclear war and the implementation of measures to halt and reverse the arms race and clear the path toward lasting peace...

54. Significant progress in nuclear disarmament would be facilitated ... by parallel political or international legal measures to strengthen the security of states...

58. ... states should actively participate in efforts to bring about conditions in international relations in which a code of peaceful conduct of nations in international affairs could be agreed and which would preclude the use or threat of use of nuclear weapons.

110. Progress in disarmament should be accompanied by measures to strengthen institutions for maintaining peace and the settlement of international disputes by peaceful means. During and after the implementation of the program of general and complete disarmament, there should be taken, in accordance with the *United Nations Charter*, the necessary measures to maintain international peace and security, including the obligation of states to place at the disposal of the United Nations agreed manpower necessary for an international peace force to be equipped with agreed types of armaments. Arrangements for the use of this force should ensure that the United Nations can effectively deter or suppress any threat or use of arms in violation of the purposes and principles of the United Nations.

111. General and complete disarmament under strict and effective international control shall permit states to have at their disposal only those non-nuclear forces, armaments, facilities and establishments as are agreed to be necessary to maintain internal order and protect the personal security of citizens and in order that states shall support and provide agreed manpower for a United Nations peace force.”

9. Thus arms regulation will ban all weapons of mass destruction, and any weapons beyond the needs of domestic law enforcement and UN peacekeeping. This will substantially reduce military costs, and free resources for civil life. UN law is the cheapest and most practical defence, and will obviate much inefficient national spending. *The Disarmament Resolution 1978* prescribes “strict

and effective” UN control of arms, and national provision of arms for the UN peace force, which is to be set up “as soon as possible” (Charter article 43). UN Secretary Ban Ki-Moon says “complementary means are needed” besides a Nuclear Weapons Convention (The Guardian, 23 November 2008). The Joint Committee could support these law-building measures. The General Assembly asked the World Court to rule on the legality of nuclear weapons; and in 1996 the Court found that the threat or use of nuclear weapons is generally illegal, and that states are obliged to conclude negotiations on their elimination. A tough Nuclear Weapons Convention might spur and sharpen preventive action.

10. There has been progress on particular weapons –

Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water 1963

Treaty on Emplacement of Nuclear Weapons and Other WMD on the Sea-Bed 1971

Biological Weapons Convention 1972

Convention on Military or other Hostile Use of Environmental Modification Techniques 1976

Convention on Inhumane Weapons 1980

Chemical Weapons Convention 1997

Ottawa Landmines Protocol 1997 to the Convention on Conventional Weapons

Strengthening United Nations law

11. In regulating arms, Australia’s goal, and means, should be to strengthen our defences through United Nations law and through Pacific Islands Forum law, i.e. to boost our sovereignty in the regional order and in the world order. United Nations law enforcement is the best investment we can make for security, the economy, the poor and the environment. Under emerging federal law, the enemy ceases to be a whole alien nation, and is reduced to a few criminal fellow-citizens of the larger embracing order.

12. The third regular session of the UN General Assembly, held in Paris in 1948 under the presidency of Herbert Evatt, yielded vintage lawmaking:

- On 3 November it declared that it is building “a world order under law, dedicated to peace, security, freedom and the general well-being of mankind” – Resolution 190.
- On 9 December it adopted the *Genocide Convention* – Resolution 260, part B of which foreshadowed the *Statute of the International Criminal Court 1998*.
- On 10 December it adopted the *Universal Declaration of Human Rights* [UDHR] – Resolution 217, which also started work on the Human Rights Covenants and the right of petition to the UN beyond national sovereignty.

UDHR article 28 provides:

“Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realised.”

Winston Churchill defined civilisation as government by civilians. The “world order under law” is the basis for arms regulation, and for all civilised behaviour; and we can speed its gradual development. We shall disarm more readily when we submit proudly to United Nations law. “Freedom is willing obedience to just laws” (Aquinas).

13. The UN structure is ample to arms regulation. The Security Council’s authority to keep the peace is virtually unlimited: article 2.7 and chapters 5-8. To gather this bounty, however, we must repeal the Council’s permanent memberships and veto to break the anarchist logjam in the Council. This will be difficult; but a groundswell of opinion will ultimately prevail on the veto members not to veto this amendment to the *Charter* articles 23, 27, 47 and 108. Effective pursuit of the four purposes of the *Charter* will gradually build that climate of opinion. It is intolerable

that the Council and arms regulation are nullified by those inordinate, anachronistic privileges of the permanent members. All five have behaved disgracefully, abusing the veto to win immunity to law for themselves and their allies: like a chosen race, they act as if they are above the law. They lead the arms race and the arms trade, and spread terror and despair. The *Charter* aims –

“to save succeeding generations from the scourge of war... and to ensure... that armed force shall not be used, save in the common interest”.

But the P5 disregard the agonies of war; they make sport of lives and morals; their old Westphalian chauvinism is schizoid or psychopathic. They spit on their constitutional responsibilities, and trample on UN purposes, principles and procedures. The *Charter* articles 47 and 101 expect efficiency, competence and integrity in UN administration, and we should hold the Council to that standard. Can a World Court writ of mandamus or the like oblige them to fulfil their obligations under articles 26, 43 and 94? Some speak of enlarging the Council to make it more democratic; but that shirks the problem and compounds it. The Assembly is a fair democratic legislature; the Council is the UN’s executive council, not another assembly; it is to be stripped for action. Churchill blamed the USA for wrecking the League; and US contempt of UN Courts and finance has been calculated to wreck the United Nations. By article 111, the original *UN Charter* is deposited in US archives: the original *Charter* should be transferred to UN archives.

14. For arms regulation, the UN structure must be used as intended. The US Second Amendment 1791, adopted when the USA was still a frontier society at war, provides that “A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.” But private guns do nothing for a well-regulated militia; they tend to undermine law and order. And so it is with domestic or private national armies. By its scorn of UN law, the USA still lacks a well-regulated militia. Disingenuously the USA says it does not want its peacekeeping troops lightly prosecuted; but the litigious USA can well defend itself against vexatious charges. Police above all must obey the law. Article 2.4 bans the use or threat of force across a national border without Security Council direction or approval: a belligerent coalition needs Council approval to use armed force. Generals may sometimes have to choose between their private national orders and the superior public law. UN peacekeepers are the harbingers of a genuine profession of arms, as they swear fealty or allegiance to the UN.

15. Canberra should enlarge its fine work in the United Nations: our UN embassies outrank bilateral links. UN member states are pledged to secure peace through law. UN law enforcement is a condition precedent to arms regulation, peace and prosperity; and we should speed it. We must sharpen Assembly, Court and Council in their respective balancing roles.

- (a) The Security Council should reliably enforce its every Resolution and every World Court decision. The Court should ask the Council to enforce any order not complied with: its judgements are meant to be enforced (article 94).
- (b) Under articles 43 and 47, the Council should activate the Military Staff Committee as a committee of the whole Council (ignoring the limitation to the P5, as it substituted the Russian Federation for the USSR in article 23) and set up a standing peace force sufficient to enforce all Court and Council decisions.
- (c) The Council should regulate national arms under articles 26 and 47, and under article 17 the Assembly should impose a tax of say 10% of national military spending.
- (d) The UN should consider extending the compulsory jurisdiction of the World Court and of the World Criminal Court to all nations, UN agencies, intergovernment bodies and transnational corporations.
- (e) The Assembly should elect to the Council only states which submit unreservedly to the World Court and the World Criminal Court, promise to enforce Council Resolutions and Court decisions, and have paid all their UN taxes.

- (f) The Assembly and its specialised agencies should follow normal practice and add interest at say 12% a year on member states' overdue taxes.
- (g) The Council should set up a Middle East war crimes tribunal applying equally to Israel and Palestine. Peace negotiations over sixty years have been futile. Law does not need a political settlement: we enoble and gain from conflicts by criminalising individual excesses rather than tolerating criminal wars against whole groups. Palestine should become a UN member; but it will be hard for it to thrive while geographically divided.
- (h) A common law on human rights, civil and military, should bind UN agencies and private actors alike. If the UN cannot sign and be bound by treaties because it is not a nation state, it would seem to have one less power than nations, contrary to the *Charter* articles 104 and 105: the UN could change the old jurisprudence by fiat. Meantime, to boost the authority of war law, the law of armed conflict, the UN and the Red Cross should consolidate and simplify the scattered, messy, repetitious and partly anachronistic terms of the relevant Geneva, Hague and UN Conventions, put its grave breaches into the Statute of the International Criminal Court, and apply it equally to UN peacekeepers and to national and other private armies. The UN Secretary's bulletin of 6 August 1999, *Observance by UN forces of international humanitarian law*, is an internal administrative statement lacking the clout of a Convention or Resolution.
- (i) In sentencing, the World Criminal Court should first order offender-restitution to victims under article 75 of its *Statute*. Australia could offer the use of its prisons and corrections officers for those criminals.
- (j) The UN Crime Prevention & Criminal Justice Centre should describe optimum crime rates for UN criminal law, and not merely help enforce national law.

Enlarging the Pacific Islands Forum

16. Regional pacts are integral to security and arms regulation. The preamble to the North Atlantic Treaty 1949 asserts the parties' faith in the United Nations, their desire to live in peace with all peoples and governments, and their determination to defend the principles of democracy, individual liberty and the rule of law. The preamble to the ANZUS Treaty 1951 starts:

“The parties to this Treaty, reaffirming their faith in the purposes and principles of the *Charter of the United Nations* and their desire to live in peace with all peoples and all governments, and desiring to strengthen the fabric of peace in the Pacific area...”

Both treaties begin in identical terms:

“1. The parties undertake, as set forth in the *Charter of the United Nations*, to settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations.”

Terrorist crimes should lead to individual prosecutions and political dialogue, not to indiscriminate reprisals. It is widely thought that the 2003 war on Iraq violated the *Charter*, the NATO and ANZUS Treaties, and the *Convention against Torture*.

17. Australia is disfranchised by the weakness of its regional links. We cling nostalgically to the UN's West Europe and Others Group, and deferentially to the UN's Asia-Pacific region; but our uncommitted membership of both groups endears us to neither. With two-thirds of the world's population, the vast Asia-Pacific “region” should divide into three or four. China and India are regions in themselves. The maritime Pacific islands should stand alone. As with the Cocos Islands, Canberra could offer to merge with Tuvalu to secure it from the fear of rising seas: the Tuvaluan population is a small municipality, and Australia would add to its territorial seas for our

mutual benefit. To strengthen the fabric of peace in the Pacific, Australia should work to enlarge and strengthen commitment to our region the Pacific Islands Forum. PIF should –

- (a) Turn its annual communiqué into formal Resolutions.
- (b) Set up a PIF human rights commission.
- (c) Under the *Charter* chapter 8, set up a PIF peacekeeping force and liaise with the UN to standardise training and equipment for work in a UN peace force.
- (d) Invite Indonesia, Japan, the Philippines, Taiwan, Brunei, East Timor, and Pacific colonies to join.
- (e) Seek a genuine act of self-determination in West Papua [article 1 of each Human Rights Covenant; UNGA Resolutions 1514 and 1752] and union of the island of Papua.
- (f) Urge Britain, Argentina and Chile to resolve their competing claims in Antarctica to consolidate the sovereignty of its seven claimant states. The *Antarctic Treaty 1959* does not renounce or diminish existing claims; and to renounce some of an existing claim is not to enlarge the claim, so it complies with article 4. Australia has 42% of the continent, and is responsible for law and order on our land and sea there.
- (g) Ask the International Whaling Commission for a critical scientific analysis of Japan's research on whales.
- (h) Consider if regional security would benefit from a UN war crimes tribunal for East Timor.
- (i) Seek to join the International Commission on Nuclear Non-proliferation and Disarmament.

18. International accords are transitory, and may reinforce the arms race. The United Nations is abiding, and builds confidence. The UN is no longer a brave pioneering adventure; it has lasted three times longer than the League; it gains authority and effect by the day; and we must use it. Dissembling about an “international community” and “the family of nations”, and the solecism of a nation’s “good international citizenship”, postpone our entry into the calm and industry of the world community. Citizenship is a mutually binding relationship between an individual and a political authority. Thanks to individual rights in the UN human rights committees, and to individual liability in the World Criminal Court, we are no longer merely nationals; we are also UN citizens in a social contract with the world body. In myriad ways international society is changing to the world order; international wars yield to conciliatory UN peacekeeping; and national armies and arms adapt accordingly. Parliament makes “laws for the peace, order and good government of the Commonwealth”: patriots today will also seek good government through the United Nations, and promote their nation’s submission to the rule of UN law. The United Nations is no more foreign to a patriot than Australia is foreign to a Tasmanian. Tasmanians and Victorians became fellow Australians in 1901; now Papuans and Australians are fellow UN citizens, as member states of the emerging world federation share sovereignty with the centre. By article 2.1 of the *Charter*, nations are sovereign against international invasion or interference, but not against UN intervention: when the UN overrides a nation’s sovereignty, it does not violate that sovereignty. No member state is supreme over the centre. The *Charter* article 2.7 apports UN and domestic jurisdiction, and clearly declares UN supremacy. Here we have sovereignty in right of a State, sovereignty in right of the Commonwealth, and now also sovereignty in right of the United Nations – and we use the level that best handles respective issues. Australian affairs are not foreign to Victorians. And to call world affairs foreign affairs is to belittle us as mere nationals tied to the soil like feudal serfs; it diminishes our political standing. To call the United Nations an external affair undoes our forebears’ achievements and paints the UN as an optional intergovernment option, existing on sufferance, rather than respecting it as the autonomous supra-national state with perpetual succession. Reactionaries like to dismiss the UN as a foreign affair – as, over many decades, some Australian State politicians denigrated Canberra. Disarmament talk then is insincere, its practice unsafe, and its content neither comprehensive nor effective. To

advance our national interests on global questions in the context that best appreciates and handles them, we should call the Department of Foreign Affairs and Trade our World Affairs Department. Global issues are foreign only to those who were denied their human right to education.

Realising the human right to education

19. Proper education is vital to arms regulation. *Homo sapiens* has always been geared for inter-group conflict; it is wired into the race consciousness, and education is part of the equation. It has been known from the start that education must adapt to serve the world order. The *UNESCO Constitution 1945* recites:

“Since wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed... A peace based exclusively on the political and economic arrangements of governments would not be a peace which could secure the unanimous, lasting and sincere support of the peoples of the world; the peace must therefore be founded, if it is not to fail, on the intellectual and moral solidarity of mankind.”

UN law must be buttressed by the moral solidarity of mankind. However, while the world state needs the habitual obedience of the bulk of the people, we cannot expect unanimity. The *Declaration of Human Rights 1948* article 26 provides –

“Education shall ... promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.”

That is reiterated precisely in two binding instruments – the *Convention against Discrimination in Education 1960* article 5 and the *Covenant on Economic, Social and Cultural Rights 1966* [CESCR] article 13 – and is buttressed by the *Covenant on Civil and Political Rights 1966* article 27. The *Convention on the Rights of the Child 1989* article 29 varies it slightly by requiring that education “shall be directed to...

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations...

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.”

20. Victorian school children used to recite a loyalty oath: “I love God and my country; I honour the flag; I will serve the Queen and cheerfully obey my parents, teachers and the laws.” That equated law and the flag with the national law and flag. Wisely it has been dropped; but that has left a political vacuum, and space for both disaffection and fanaticism. Schools should fly the UN flag on UN days of observance. In Resolution 2782 (1971) the General Assembly –

“Declares that 24 October, United Nations Day, shall be an international holiday and recommends that it should be observed as a public holiday by all states members of the United Nations.”

Australia should join the states which thus celebrate United Nations Day. By the *Declaration on the Promotion among Youth of the Ideals of Peace, Mutual Respect and Understanding between Peoples 1965* (Assembly Resolution 2037), the young should develop the cultural heritage of all mankind. Education should acquaint youth with the UN role in promoting peace, understanding and co-operation, and train them in peace, liberty, human dignity and equality, and love for humanity and its creative achievements. Principle 6 provides: “Young people must become conscious of their responsibilities in the world they will be called upon to manage and should be inspired with confidence in a future of happiness for mankind.”

21. Virtually all states have ratified the human rights law on education; but all violate it, stunting their children politically, socially and vocationally. That is child abuse. The Assembly recommends teaching on UN purposes, principles, structure and activities, and dissemination of UN Resolutions (Resolutions 137, 636, 1511 and 2445). We should teach the *Charter* and human rights instruments as law. The *Charter* is short and simple: every child should have a hard copy. To prepare children for today's global society, we must plant them firmly *in* that society. People fear, despise or neglect the UN because they are ignorant of it and feel no part in it. Like Pope Urban 8 damning Galileo, cynical political scientists deride the world order as idealist and promote amoral nationalism as realist, thus creating the conditions for unregulated conflict, and indoctrinating children for war. In concentration camps in four countries I have reflected on how people can turn to genocide. It is easy: instruct children to alienate 99% of the world, and it is a short step to dehumanising the aliens.

22. An Australian Certificate of Education should require schools to observe this law, to teach a balanced history as in UNESCO's *History of Mankind*, and thus to teach a critical loyalty to the United Nations and commitment to the world community, curing the bigotry of past education. The new, large, embracing loyalty is easier and lighter than the old, small, exclusive loyalties because the UN has no alien enemies. Canberra is obliged to report progress on this to UNESCO under the *Convention against Discrimination in Education* article 7, and to the UN Secretary under CESCR article 16. And Canberra should instruct the Human Rights and Equal Opportunity Commission to monitor our observance of the CESCR generally: all human rights are "indivisible and interdependent" (*Declaration on the Right to Development* 1986 article 6). These steps are vital to arms regulation.

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